

## Message Text

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ORIGIN SCS-03

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FM SECSTATE WASHDC

TO AMEMBASSY NEW DELHI PRIORITY

INFO AMCONSUL CALCUTTA PRIORITY

AMCONSUL BOMBAY

AMCONSUL MADRAS

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E.O. 11652: N/A

TAGS: CASC, PFOR, IN

SUBJECT: HARCOS/FLETCHER: CONGRESSIONAL QUERIES

1. WE HAVE BEGUN TO RECEIVE CONGRESSIONAL INQUIRIES  
PROMPTED BY PUBLIC CONCERN ABOUT CASE. PROPOSED LANGUAGE  
FOR REPLIES FOLLOWS:

2. QUOTE: THE EMBASSY AT  
NEW DELHI AND THE CONSULATE GENERAL IN CALCUTTA HAVE BEEN  
DEEPLY INVOLVED WITH THIS MATTER SINCE THE MORNING OF  
APRIL 27, 1973 WHEN THEY LEARNED OF HARCOS' ARREST IN  
THE EARLY HOURS OF APRIL 26. THE CONSULATE GENERAL  
WAS IMMEDIATELY IN TOUCH WITH THE INDIAN AUTHORITIES IN  
CALCUTTA AND SHORTLY THEREAFTER A CONSULAR OFFICER SAW  
THE TWO MEN FOR THE FIRST TIME. OUR INITIAL RESPONSI-  
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BILITY IN THIS CASE, AS IN EVERY OTHER CASE OF AN

AMERICAN CITIZEN ARRESTED ABROAD, WAS THE PURELY CONSULAR FUNCTION OF ASSISTING THEM TO GET A LAWYER AND TO INSURE THAT THEY RECEIVED TREATMENT AT LEAST EQUAL TO THAT ACCORDED TO A NATIONAL OF THE COUNTRY.

3. THE CASE HAS, HOWEVER, DRAGGED ON THROUGH A LONG INVESTIGATIVE PERIOD. DURING THIS PERIOD WE HAVE REPEATEDLY URGED THE INDIAN AUTHORITIES TO STATE THE CHARGES UNDER WHICH THE MEN ARE BEING HELD AND TO BRING

THEM TO TRIAL IF WARRANTED. THE CASE HAS RECEIVED AND IS CONTINUING TO RECEIVE THE PERSONAL ATTENTION OF AMBASSADOR MOYNIHAN, WHO HAS BROUGHT OUR VIEWS ON THE CASE TO THE ATTENTION OF OFFICIALS AT THE HIGHEST LEVELS OF THE INDIAN GOVERNMENT WITH A FIRMNESS WHICH DID NOT ADMIT OF MISREPRESENTATION. IT NOW APPEARS THAT A TRIAL WILL COMMENCE IN CALCUTTA ON OR ABOUT SEPTEMBER 9.

4. THE CASE HAS BEEN COMPLICATED BY A NUMBER OF FACTORS. WE UNDERSTAND THAT HARCOS WAS ARRESTED IN A PROHIBITED DOCK AREA IN CALCUTTA HARBOR WITH SCUBA GEAR. FOR MANY MONTHS BOTH HARCOS AND FLETCHER STEADFASTLY REFUSED TO OFFER ANY EXPLANATION OF THEIR PRESENCE IN CALCUTTA. RECENTLY, HOWEVER, LAWYERS FOR THE TWO MEN HAVE SAID THEY WERE INVOLVED IN SMUGGLING HASHISH TO THE UNITED STATES.

5. THE EMBASSY HAD LONG CONSIDERED THAT DRUG SMUGGLING MAY HAVE BEEN INVOLVED IN THIS CASE. BUT AS WE OURSELVES HAD NO EVIDENCE OF SUCH ACTIVITY AND AS THE TWO PERSONS CONCERNED MAINTAINED SILENCE, WE WERE IN NO POSITION TO SUGGEST THIS POSSIBILITY TO THE INDIAN GOVERNMENT.

6. MR. HARCOS AND MR. FLETCHER BEGAN A HUNGER STRIKE JUNE 17. WE UNDERSTAND THEY ARE TAKING SOME NOURISHMENT AND ARE BEING FED NASALLY BY THE PRISON AUTHORITIES. DURING THE PERIOD OF THE HUNGER STRIKE THEY HAVE BEEN SEEN REGULARLY BY A CONSULAR OFFICER WHO REPORTS THAT THEY ARE GENERALLY WELL THOUGH SOMEWHAT WEAKENED BY LIMITED OFFICIAL USE

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THEIR FAST.

7. NOW THAT A TRIAL JUDGE HAS BEEN APPOINTED AND A TENTATIVE TRIAL DATE SET, WE TRUST THAT THE JUDICIAL PROCESS WILL MOVE FORWARD WITH MORE DISPATCH. WE WILL CERTAINLY CONTINUE TO DO WHATEVER WE CAN TO ENCOURAGE THAT PROCESS. OUR DIPLOMATIC AND CONSULAR OFFICERS IN INDIA HAVE PRESSED THE AUTHORITIES STRONGLY TO ALLOW

A CONSULAR OFFICER TO BE PRESENT DURING THE TRIAL, EVEN  
IF IT IS HELD "IN CAMERA;"

8. WE CANNOT, OF COURSE, PREDICT HOW THE CASE WILL COME  
OUT AND WHAT SENTENCE MAY BE IMPOSED SHOULD MR. HARCOS  
AND MR. FLETCHER BE CONVICTED. HOWEVER, BOTH OUR  
EMBASSY IN NEW DELHI AND OUR CONSULATE GENERAL IN  
CALCUTTA WILL CONTINUE TO DO EVERYTHING POSSIBLE TO

URGE THE INDIAN AUTHORITIES TO BRING THIS CASE TO A PROMPT  
AND FAIR CONCLUSION. UNQUOTE.

9. REQUEST YOUR CONCURRENCE OR SUGGESTED CHANGES AS  
SOON AS POSSIBLE. KISSINGER

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